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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,716	11/15/2005	Thomas Sagel	SAGEL4	6838
1444	7590	05/11/2009	EXAMINER	
BROWDY AND NEIMARK, P.L.L.C.			ING, MATTHEW W	
624 NINTH STREET, NW			ART UNIT	PAPER NUMBER
SUITE 300				3637
WASHINGTON, DC 20001-5303			MAIL DATE	DELIVERY MODE
			05/11/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/534,716	<b>Applicant(s)</b> SAGEL ET AL.
	<b>Examiner</b> MATTHEW W. ING	<b>Art Unit</b> 3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 February 2009, 03 November 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 15-30 is/are pending in the application.
- 4a) Of the above claim(s) 19-30 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 15-18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12 May 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

*/José V. Chen/*

**Primary Examiner, Art Unit 3637DETAILED ACTION**

***Election/Restrictions***

1. Claims 19-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a non-elected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 2/23/09.
2. Applicant's election with traverse of Species 1 in the reply filed on 2/23/09 is acknowledged. The traversal is on the ground(s) that "the general inventive concept is to provide a mounting hardware for an extension piece which is installable without the use of tools". This is not found persuasive because this is not a proper traversal of the election of species requirement, as noted in the last Office Action.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 112***

3. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 18 fail(s) to recite sufficient structural elements and interconnection of the elements to positively position and define the structure(s) & component(s) whereby lower frame segment is rendered "spring biased" and capable of "protrud[ing] the locked condition", so that an integral structure able to function as claimed is recited.

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fulterer (6,199,966) in view of Hadary (4,370,773).

7. Fulterer teach(es) the structure substantially as claimed, including a rigid frame having an upper segment (Fig. 9) and a lower segment (16); an upper rail (28) and a lower rail (4); wherein a furniture front (Fig. 9) is fixed on the rigid frame; wherein the upper segment (Fig. 9) of the rigid frame is engaged to the upper rail (28) and the lower segment (16) of the rigid frame is engaged (via, e.g., 32) on the lower rail (4); wherein the rigid frame is adjustable vertically between the upper rail (28) and the lower rail (4) by a height adjustment screw (15) engaged between the lower frame segment (16) and the lower rail (4); and a locking means (combination of 33 & 37).

8. The only difference between Fulterer and the invention as claimed is that Fulterer fail(s) to teach two height adjustment screws; and a spring biased locking latch slidably engaged against the screws in the lower frame segment when in the locked condition for locking the rigid frame between the upper rail and the lower rail.

9. Hadary, however, teaches locking means comprising a spring biased locking latch (combination of 24 & 28) slidably engaged against an elongated member (33-34) in a frame segment (combination of 11 & 18) when in the locked condition. Additionally, regarding the quantity of height adjustment screws, mere duplication of the essential working parts of a device has been held to involve only routine skill in the art.

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10. It would have been obvious to one of ordinary skill in the art to include a second height adjustment screw in order to provide redundancy & additional structural support; to include a substitute locking means, as taught by Hadary, for that of Fulterer, since the results of substituting one known, equivalent locking means for another would have been predictable; thereby providing the structure substantially as claimed.

11. Regarding claim 16, Fulterer teaches a height adjustment screw (15) screwed (col. 6, lines 52-54) into the lower rail and each have a head (upper portion of 15) which extends through bottom and top sides of the lower rail and a support surface (34) of the two height adjustment screws engages under the bottom side of the lower rail. It is noted that the support surface (upper surface of 34) engages Item 31; and that such engagement occurs "under the bottom side of the lower rail". Alternately, it is noted that the upper surface of 31 can be termed a "support surface" and that said support surface engages the remainder of Item 15 "under the bottom side of the lower rail". Additionally, Hadary teaches a spring biased locking latch engaging a recess (between 14 & 33-34) between a head and a bottom side of an elongated structure (18) when in the locked condition.

12. Regarding claim 17, Fulterer teaches a head (upper portion of 15) that can be turned (via 31) in (i.e., via threaded connection (col. 6, lines 52-54) and between the walls (8, 9) of said lower rail) the lower rail to vertically adjust the frame between the upper rail and the lower rail (col. 7, lines 53-56).

13. Regarding claim 18, Hadary teaches a locking latch (24, 28) formed sufficiently long so as to be spring biased (via 32) to protrude (via 31) in the locked condition out from the lower frame segment (11, 18) and be pushed against a spring that is supported in the lower frame segment (11, 18) to unlock a second member (14).

***Response to Arguments***

14. Applicant's arguments filed 11/3/08 have been fully considered but they are not persuasive.
15. Applicant's arguments with respect to claims 15-18 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW W. ING whose telephone number is (571)272-6536. The examiner can normally be reached on Monday through Friday, 7:30 am - 4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MWI  
6 May 2009  
/José V. Chen/  
Primary Examiner, Art Unit 3637